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SUBJECT: UKRAINE TAKES BACKWARD STEP ON AG IMPORT RULES

REF: A. KYIV 897  
[1](#)B. KYIV 790

[1](#)1. (SBU) Summary: Ukraine's Rada (parliament) passed a law on April 10 reinstating mandatory certification of all imported agricultural products. Should it enter into force, this measure would undo progress made last November and damage ongoing efforts to resolve problems with U.S. meat imports. Ukraine's WTO negotiating team actively opposes promulgation of this law. It is not clear if/when the bill will enter into force given the ongoing political crisis, and President Yushchenko's position thus far that the Rada's legislative actions have no validity in the wake of his April 2 dismissal decree. Post is pushing at the highest levels of government, noting that the measure is inconsistent with Ukraine's aspirations to join the WTO and advocating that the GOU not let it enter into force. End Summary.

Rump Rada Approves Draft Law on Certification of Ag Imports  
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[1](#)2. (U) On April 10 Ukraine's Rada (parliament) passed a draft law, registered as number 2896, and entitled "On Amending Laws of Ukraine Concerning the Quality of Imported Food Products." The measure would reinstate mandatory certification for all imported agricultural products (except raw materials used in the manufacture of goods already subject to mandatory certification). This measure, should it go into effect, would repeal a key aspect of last November's amendment to the Law on Veterinary Medicine, one of the WTO-required bills, that was meant to eliminate a barrier to imports. According to a local WTO expert, the new law would result in an almost quadrupling of the number of goods subject to mandatory certification.

[1](#)3. (U) The Rada approved the draft in a single day, voting in both the first and second reading simultaneously. The vote was 243 for, 0 against, with 12 abstentions, winning nearly unanimous support from the ruling coalition; the opposition was almost entirely absent from the Rada.

Political Background  
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[1](#)4. (SBU) President Yushchenko on April 2 issued a decree dissolving the Rada immediately and calling for new elections. The majority coalition has refused to accept

the decree and the Rada has continued to operate, but without the participation of the opposition. Yushchenko does not consider the Rada legitimate, and has refused to recognize any of the laws passed by the Rada since April 2. The legal status of such laws remains unclear. According to the Constitution and Rada rules, if the President fails to veto or sign a bill within 15 days of passage, the Rada should promulgate the bill, at which point it becomes law (i.e., there is no "pocket veto"). However, a coalition MP and a member of the Rada's Secretariat told us that the Rada may decide not to promulgate any laws without Yushchenko's signature (refs A and B).

#### Vote is a Step Backward

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¶15. (SBU) This bill runs counter to Ukraine's pledge to its WTO Working Party to reduce the number of goods subject to mandatory certification. It also appears to be a major violation of the WTO TBT Agreement, as it subjects all agricultural goods to mandatory certification, rather than listing goods for certification individually.

¶16. (SBU) The Rada vote came as the GOU was attempting to resolve problems with U.S. meat imports, caused by the State Standards Committee's insistence that importers continue to receive a certificate from them, even though the Ukrainian Veterinary Service had finally agreed to recognize U.S. certificates. Indeed, the November amendment to the Law on Veterinary Medicine removed the requirement for the State Standards Committee to duplicate the function of the Veterinary Service by issuing separate certificates. Post recently complained to the Ministry of Economy, providing examples of how importers were

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nonetheless still facing requirements from customs officials for both types of certification. Our GOU counterparts recognized this was a problem and agreed to fix it, noting the hitch appeared to be that implementing regulations for the new law are not yet complete. (Comment: Issuing separate certificates benefits the State Standards Committee financially thanks to costly additional testing. The State Standards Committee therefore opposed the November WTO amendment and is likely behind this latest law. End Comment.)

#### WTO Team Opposed Bill, Seeking Veto

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¶17. (SBU) Zhanna Pastovenska, from the Ministry of Economy's WTO Department, admitted to Econoff on April 16 that the new law would be problematic for WTO accession. She said that the Ministry of Economy had formally opposed the bill, which had been introduced in January by a group of MPs but which initially did not move forward. Pastovenska promised Ukraine's WTO team would request that President Viktor Yushchenko veto the bill.

¶18. (SBU) A complicating factor is that, given President Yushchenko's position on the Rada's illegitimacy, he is unlikely to veto this particular bill. The legal status of this WTO-related law, therefore, is uncertain. The Constitutional Court is currently hearing the petition on Yushchenko's decree; a decision could shed light on the validity of legislation passed in April.

#### Comment: Need to Push Back

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¶19. (SBU) The quick Rada vote caught most observers, including apparently Ukraine's WTO negotiating team, by surprise. This law is unquestionably a step backward for Ukraine's accession. The vote by members of the ruling coalition is inconsistent with the Yanukovich government's pledge to pursue accession at the earliest possible date.

We are already raising the matter at the highest levels of the GOU to alert the GOU to the WTO implications and to prevent this bill from becoming law. The Ambassador has sent letters to the President, Prime Minister, Minister of Foreign Affairs, and Minister of Economy urging that this measure not become law or that it be promptly repealed.

TAYLOR